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9 Susan Swinton, Dawn E. Struck, and William J.  
10 Palmer

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHRIS LUSBY TAYLOR, NANCY A.  
PEPPLE-GONSALVES, GARY  
KESSELMAN, SUSAN SWINTON, DAWN E.  
STRUCK, and WILLIAM J. PALMER

As Taxpayers, and on behalf of themselves and  
other persons similarly situated,

Plaintiff,

vs.

JOHN CHIANG, individually and in his  
capacity as STATE CONTROLLER OF THE  
STATE OF CALIFORNIA; STEVE WESTLY,  
individually

Defendants.

Case No.: CIV. -S-01-2407 WBS

**ORDER**

Hearing:

Date: May 7, 2007  
Time: 1:30 p.m.  
Courtroom: 5

(The Honorable William B. Shubb)

**ORDER**

This matter came before the Court on Plaintiffs' Motion to Expedite Hearing on  
Motion for Temporary Restraining Order. Upon Plaintiffs' Motion and supporting  
documents the Court finds as follows:

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2       1. Plaintiffs filed this action for injunctive and other equitable relief on  
3 December 31, 2001.  
4

5       2. On August 16, 2005, this court filed its order denying plaintiffs' motion  
6 for a preliminary injunction.  
7

8       3. On September 2, 2005, plaintiffs appealed this court's order of August  
9 16, 2005 to the United States Court of Appeals for the Ninth Circuit.  
10

11       4. On July 31, 2006, the Court of Appeals heard oral arguments, and the  
12 appeal was submitted for decision.  
13

14       5. On April 30, 2007, the Court of Appeals issued its unpublished  
15 memorandum decision reversing this court's order and finding this court erred in  
16 refusing to issue the preliminary injunction requested by plaintiffs.  
17

18       6. On April 30, 2007, as soon as word of the Court of Appeals' decision was  
19 received, this court placed the matter on calendar for May 21, 2007.  
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21       7. The following day, May 1, 2007, plaintiffs filed a motion for a  
22 Temporary Restraining Order and Preliminary Injunction; and three days later, on May  
23 4, 2007, moved to expedite the May 21, 2007 hearing due to a claimed irreparable loss  
24 of \$3.8 million per day while the motion goes unresolved.  
25

26       8. Apparently, the Court of Appeals could take more than 19 months,  
27 including nine months after the matter was argued and submitted, to decide whether  
28 plaintiffs are suffering irreparable injury, but this court cannot wait another two weeks,  
to give the other side time to respond, before hearing plaintiffs' request for a temporary  
restraining order.  
29

1       Upon the basis of the foregoing, the Court hereby ORDERS:

2       1.       That a hearing for Motion for Temporary Restraining Order is set for

3       **May 7, 2007 at 1:30 p.m.**

4       2.       That Defendant's opposition to such motion shall be filed on or before

5       **11:00 a.m. on May 7, 2007.**

6       IT IS SO ORDERED at 4:00 o'clock p.m. this 4th day of May, 2007.

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10       WILLIAM B. SHUBB  
11       UNITED STATES DISTRICT JUDGE

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